



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/678,824	10/03/2003	Billy J. McMakin		1130

7590 03/23/2005

D. W. Spurrell  
P.O. Box 970  
Johnson City, TN 37605

EXAMINER

BARFIELD, ANTHONY DERRELL

ART UNIT PAPER NUMBER

3636

DATE MAILED: 03/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/678,824

Applicant(s)

MCMAKIN, BILLY J.

Examiner

Anthony D Barfield

Art Unit

3636

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

## DETAILED ACTION

### *Claim Rejections - 35 USC § 112*

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The phrase "said plane" lacks proper antecedent basis. The phrases "said foot support position", and "said leg portions", lack proper antecedent basis in claims 5-6.

### *Claim Rejections - 35 USC § 102*

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1 are rejected under 35 U.S.C. 102(e) as being anticipated by Jonasson. Jonasson shows the use of a child's restraining seat (20) which is adapted to be affixed in position on a vehicle seat (23) having a seat section lying in a generally horizontal plane, and a back rest section, the restraining seat comprising base means for supporting the restraining seat on the vehicle seat and having a forward portion adapted to lie adjacent the front of the seat section (see Fig. 5). A platform means (10) on the forward portion and having a foot support portion (13)

Art Unit: 3636

and a foot support positioning leg portion (7,9), whereby the foot support portion being adapted to lie at a generally right angle to the leg portion and when the leg portion is extended generally downwardly from the plane the foot support portion is in a position to comfortably support a child's feet.

5. Claims 1-4 as best understood are rejected under 35 U.S.C. 102(e) as being anticipated by Marshall. Marshall shows the use of a child's restraining seat (332) which is adapted to be affixed in position on a vehicle seat having a seat section lying in a generally horizontal plane, and a back rest section, the restraining seat comprising base means for supporting the restraining seat on the vehicle seat and having a forward portion adapted to lie adjacent the front of the seat section (see Figs. 16-18). A platform means (1,100) on the forward portion and having a foot support portion (103) and a flexible foot support positioning leg portion (Fig. 16), whereby the foot support portion being adapted to lie at a generally right angle to the leg portion and when the leg portion is extended generally downwardly from the plane the foot support portion is in a position to comfortably support a child's feet. Furthermore, Marshall shows the front portion and base means adapted to fold backwards on top of the base means when not in use (see Figs. 16-19) or fold up on the back section when not in use.

6. Claims 1-4 as best understood are rejected under 35 U.S.C. 102(e) as being anticipated by Brady. Brady shows the use of a child's restraining seat (32) which is adapted to be affixed in position on a vehicle seat having a seat section lying in a generally horizontal plane, and a back rest section, the restraining seat comprising base means for supporting the restraining seat on the vehicle seat and having a forward portion adapted to lie adjacent the front of the seat section (see Fig.2). A platform means (10) on the forward portion and having a foot support portion (20) and

Art Unit: 3636

a flexible foot support positioning leg portion (18), whereby the foot support portion being adapted to lie at a generally right angle to the leg portion and when the leg portion is extended generally downwardly from the plane the foot support portion is in a position to comfortably support a child's feet. Furthermore, the cover of Brady would inherently allow the front portion and base means to fold backwards on top of the base means when not in use or fold up on the back section when not in use.

*Allowable Subject Matter*

7. Claims 5-7 would be allowable over the prior art made of record if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

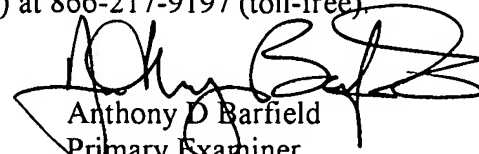
*Conclusion*

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Reference No. 5,560,679 and 6,237,996 show features of the claimed invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anthony D Barfield whose telephone number is 703-308-2158 until April 7, 2005, afterwards the examiner may be reached at 571-272-6852. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 3636

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Anthony D Barfield  
Primary Examiner  
Art Unit 3636

adb

March 19, 2005